

# Utah power company seeks boost

by David Elman

25 October 2006

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Delays in an expansion project have caused a brownout for Desert Power LP, but the power plant owner hopes to secure the funding necessary for renewed operations. The Houston-based company and affiliates Desert Power LLC, DP Leasing Co. LLC and Rowley Thermal Energy LLC filed for Chapter 11 protection on Monday, Oct. 23, in the U.S. Bankruptcy Court for the District of Nevada in Reno.

According to a declaration by manager Charles M. Darling IV filed with the Reno court, Desert Power LP owns a 65-megawatt natural gas-fired peaking power plant in Rowley, Utah, roughly 50 miles from Salt Lake City. The plant operated from its May 2002 opening through 2003, but high gas prices and low power prices led to a loss in 2003. Desert Power chose not to operate in 2004.

Instead, the company began a conversion of the plant to a 100-megawatt combined-cycle cogeneration facility. Cogeneration plants capture the heat generated in producing power and use it for additional production. Desert Power plans to convert the heat to steam, which will drive a turbine.

Cogeneration plants meeting Federal Energy Regulatory Commission requirements and efficiency standards gain leverage in negotiating with utility companies, which must either buy the power at a price matching what their production costs would have been or transport the energy to another utility.

According to court papers, Portland, Ore.-based PacifiCorp agreed to a 20-year contract for all of the power. In exchange, the utility would pay for the construction and operation of the plant.

US Magnesium LLC, which owns a facility adjacent to the power plant, is the likely buyer for the cogeneration steam.

Desert Power originally had a May 6 deadline to complete construction.

A redesign by PacifiCorp of the connection between the plant and the utility's transmission facilities, however, led to alleged delays in construction, documents said. PacifiCorp, for its part, alleged in a letter to Desert Power counsel Stephen F. Mecham of Callister Nebeker & McCullough that the debtor had missed other milestones unrelated to the redesign.

After mediation before the Utah Public Service Commission, the agency extended the deadline to June 1, 2007, but declined to classify delays from the redesign as a force majeure event, which would have affected the contract between the parties.

Construction is expected to take an additional six to seven months and \$27 million, documents said.

The delays in the project, though, led secured lender LaSalle Bank NA to stop advances. The bank is owed \$28.75 million.

DQ Power LLC and owner DQ Holdings LLC have since advanced \$2.47 million, but the cutoff by LaSalle triggered defaults with contractors and subcontractors, several of which filed mechanics' liens against the power plant.

Desert Power in August negotiated a sale of its assets to New York-based MMC Energy Inc. for \$3.5 million in cash and stock, plus assumed accounts payable and bank debt. MMC terminated the deal Sept. 11 for unstated reasons, according to a Securities and Exchange Commission filing.

While in Chapter 11, the debtors hope to secure additional capital to complete the plant by the June 1 deadline or, alternatively, to sell their assets.

Darling owns a majority of DQ Holdings, his declaration said.

Subsidiary DQ Power, in turn, owns a 58% stake in Desert Power LLC. An investor group holds the remainder.

Desert Power LLC is the managing member of Desert Power LP and holds a 99.9% stake. DQ Power is a limited partner and owns the rest.

DP Leasing owns the plant's equipment and leases it to parent Desert Power LP.

Rowley Thermal Energy will own the contract for the steam sale to US Magnesium.

Desert Power LP listed \$1 million to \$100 million in assets and liabilities in its petition.

LaSalle Bank was named as the largest unsecured creditor, with a claim equal to its secured loan.

PCE Constructors Inc. (\$5.12 million), DQ Holdings (\$2.14 million), Sega Inc. (\$652,395.06) and Ceco Building Systems (\$506,115.39) follow.

A Section 341(a) meeting of creditors is scheduled for Nov. 20.

Judge Gregg W. Zive is presiding.

Kaaran E. Thomas, Sylvia Harrison and Zachary J. Wadlé of McDonald Carano Wilson LLP are debtor counsel.

Thomas did not return calls for comment. Darling was unavailable.

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